

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
WTB Seeks Comment on CMRS)	WT Docket No. 05-71
Market Competition)	DA 05-487

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (“NTCA”) submits these comments in response to the above referenced *Public Notice*¹ in which the Wireless Telecommunications Bureau (“WTB” or “Bureau”) solicits data and information in order to evaluate the state of competition among providers of CMRS for its Tenth Annual Report and Analysis of Competitive market Conditions with Respect to Commercial Mobile Services. NTCA is a national association representing more than 560 rural telecommunications providers. While NTCA’s members are all rural incumbent local exchange carriers, most provide their rural communities with a broad array of telecommunications services, including wireless service.

NTCA regularly solicits data from its members about the services offered, technology employed, and customers served. NTCA’s latest wireless survey was completed in December 2004.² One hundred and five member companies responded to NTCA’s request for information. The survey results provide aggregated information

¹ *Public Notice* WTB seeks comments on CMRS Market Competition, WT Docket No. 05-71, DA 05-487 (released February 24, 2005) (*Public Notice*).

² NTCA 2004 Wireless Survey Report (released December 2004).

about pricing, features, and technology. A copy of NTCA's wireless survey report is attached.

I. BARRIERS TO ENTRY

In the *Public Notice*, the Bureau seeks comment on types of barriers to entry in the mobile telecommunications market and whether barriers to entry are different in rural and urban areas. The Bureau also questions whether there is access to sufficient spectrum, either through Commission auctions or through secondary market transactions.

Despite the mandates in Section 309(j) of the act, barriers to entry still exist for rural telephone companies. As a result, the goal of rapid deployment in rural areas is yet to be achieved in an adequate manner. NTCA's survey quantified the immediate need and desire of our members for more spectrum in rural areas and the difficulties they face in obtaining it. While 57% of survey respondents indicated that they currently hold at least one wireless license, respondents indicated they would prefer access to additional licensed spectrum. Concerns that threatened future wireless plans included rural carriers' inability to obtain spectrum at auction.

While 10% of survey respondents indicated that they had acquired spectrum in the past year, this number is down significantly from the 2003 response of 23%.³ And despite the recent changes to the spectrum leasing rules, the number of carriers who entered into negotiations to acquire spectrum was also down from 11% to 8%.

Spectrum leasing may be successful when two large carriers of equal bargaining power seek to come to a mutually beneficial arrangement. But for rural carriers, the process can be lengthy, burdensome, and usually, unsuccessful. Rural carriers tell us that large carriers are unwilling to work with them and frequently neglect to respond to

³ The survey did not ask respondents how they acquired the spectrum.

inquiries. One large carrier in particular has informed some NTCA members that their rural service territory serves too few people to be of interest for an agreement. Members describe spectrum-leasing opportunities as “virtually nonexistent.”

While secondary markets may be useful tools for rural carriers interested in serving portions of larger carriers’ service territories, to date the opportunity has been available for only a handful of carriers. More opportunities may materialize after large carriers work through their consolidation efforts, determine how they will use particular spectrum, what portion of the spectrum will never yield a sufficient return on investment and is therefore expendable, and for what price they are willing to part with it. In some areas and particularly for the most valuable spectrum, this process is likely to take decades.

NTCA has advocated a “keep what you use” spectrum licensing approach.⁴ Under “keep what you use,” if spectrum is licensed according to a large service territory and it goes unused after a certain period of time, the unused spectrum would revert to the Commission for re-licensing. This would provide the necessary incentive for large carriers to enter into negotiations with the small carriers for partitioning agreements. If a carrier neglected to do so, the unused spectrum would become available through the regulatory process. Either way, the inability to obtain spectrum would become less of a barrier for carriers interested in serving rural communities.

⁴ See, NTCA Comments, In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation, WT Docket No. 03-202, *Notice of Proposed Rulemaking*, (filed January 14, 2005).

II. ROAMING

The Bureau seeks data on the availability of roaming and the extent to which carriers have agreements that enable their customers to use automatic roaming through the United States. The Bureau questions the extent to which customers are forced to use manual roaming.

While NTCA agrees that there remain roaming issues that the Commission must address, the issues have nothing to do with automatic versus manual roaming. Automatic roaming is nearly ubiquitously available to consumers in this country. Carriers who do not offer automatic roaming face certain demise. Today's roaming issues center around the unequal bargaining power of large and small carriers, a problem that grows as the large wireless carriers become larger. Consumers will ultimately pay more and be disadvantaged unless the Commission places checks on the ability of large carriers to exact below cost roaming rates.

Unlike large carriers, small, rural wireless carriers are dependant on roaming revenues. Thirty-six percent of NTCA's wireless survey respondents who offer CMRS service to their subscribers reported that roaming revenues account for more than 40% of their total revenues. Among other things, roaming revenues are used to ensure that small carriers remain technically competitive. Small carriers have a long history of offering rural consumers the most up-to-date telecommunications services and products. This history will not repeat itself if the revenue streams are permitted to dry up.

Large carriers have all of the power when they enter into roaming rate "negotiations" with small carriers. The small carrier is forced to accept whatever rate the

large carrier proposes or have no roaming agreement. Large carriers wanting to offer their customers an attractive package can force small carriers to accept roaming rates well below actual costs. Small carriers who decline the ridiculously low roaming rates will be left in the untenable position of having to inform their customers they do not have the ability to roam outside of their carriers' service territory.

Large carriers have every incentive to drive the roaming rate to artificially low levels. They are not dependent on the revenue, but they know that small carriers depend on it. Driving the rate down threatens the viability of small, competing carriers and can force them out of the marketplace. The large carriers benefit if there is less competition for customers. Consumer choice and the availability of service in rural areas is at stake. The Commission must act to neutralize the competitive inequities of roaming rate negotiations.

III. CONCLUSION

Consolidation of large carriers in the CMRS marketplace threatens the viability of the small carriers who serve rural America. The Commission must make a greater effort to ensure that small carriers have access to wireless spectrum and that large carriers are not permitted to use their superior bargaining power in a manner that deprives consumers of choice and destroys small carriers.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

By: /s/ L. Marie Guillory
L. Marie Guillory
(703) 351-2021

By: /s/ Jill Canfield
Jill Canfield
(703) 351-2020

Its Attorneys

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
703 351-2000

March 28, 2005

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WT Docket No. 05-71, DA 05-487 was served on this 28th day of March 2005 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons.

/s/ Rita H. Bolden

Rita H. Bolden

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW, Room 8-A201
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, D.C. 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, D.C. 20554

Commissioner Jonathan S. Adelstein
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, D.C. 20554

Best Copy and Printing, Inc.
445 12th Street, SW
Room CY-B402
Washington, D.C. 20554

Heidi Kroll
Federal Communications Commission
Spectrum Competition & Policy Division
Wireless Telecommunications Bureau
445 12th Street, SW
Washington, D.C. 20554